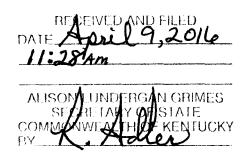


GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 40
FRIDAY, FEBRUARY 19, 2016

The following bill was reported to the House from the Senate and ordered to be printed.



1	AN ACT relating to open juvenile proceedings.
2	Be it enacted by the General Assembly of the Commonwealth of Kentucky:
3	→SECTION 1. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO
4	READ AS FOLLOWS:
5	(1) The General Assembly respectfully requests that the Supreme Court of Kentucky
6	institute a pilot project to study the feasibility and desirability of the opening or
7	limited opening of court proceedings, except for proceedings related to sexual
8	abuse, to the public which are related to:
9	(a) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and
10	(b) Termination of parental rights proceedings under KRS Chapter 625.
11	(2) (a) The pilot project may be established in a minimum of three (3) diverse
12	judicial districts or judicial circuits or a division or divisions thereof chosen
13	by the Chief Justice.
14	(b) A pilot project authorized by this subsection shall not be established in a
15	judicial district or judicial circuit or a division thereof when objected to by
16	the applicable judge or county attorney.
17	(3) The pilot project shall:
18	(a) Require participating courts to be presumptively open;
19	(b) Last for four (4) years, unless extended or limited by the General Assembly;
20	<u>and</u>
21	(c) Be monitored and evaluated by the Administrative Office of the Courts to
22	<u>determine:</u>
23	1. Whether there are adverse effects resulting from the opening of
24	certain proceedings or release of records;
25	2. Whether the pilot project demonstrates a benefit to the litigants;
26	3. Whether the pilot project demonstrates a benefit to the public;
27	4. Whether the pilot project supports a determination that such

1	proceedings should be presumptively open;
2	5. Whether the pilot project supports a determination that such
3	proceedings should be closed;
4	6. How open proceedings under the pilot project impact the child;
5	7. The parameters and limits of the program;
6	8. Suggestions for the operation and improvement of the program;
7	9. Rules changes which may be needed if the program is to be made
8	permanent and expanded to all courts; and
9	10. Recommendations for statutory changes which may be needed if the
10	program is to be made permanent and expanded to all courts.
11	(4) The Administrative Office of the Courts:
12	(a) Shall provide an annual report to the Legislative Research Commission, the
13	Interim Joint Committee on Health and Welfare, and the Interim Joint
14	Committee on Judiciary by September 1 of each year the program is in
15	operation with statistics, findings, and recommendations; and
16	(b) May make periodic progress reports and statistical reports and provide
17	suggestions to the Interim Joint Committee on Health and Welfare and to
18	the Interim Joint Committee on Judiciary when determined necessary by
19	the Chief Justice.
20	→ SECTION 2. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO
21	READ AS FOLLOWS:
22	(1) A court chosen for the pilot project authorized by Section 1 of this Act shall,
23	subject to written authorization by the Chief Justice:
24	(a) Open all or some of its proceedings to the public relating to cases identified
25	in subsection (1) of Section 1 of this Act, subject to subsection (2) of this
26	section;
27	(b) Set parameters for members of the public related to attendance at open

1		proceedings and the information obtained during the proceedings; and
2	(c)	Establish a procedure to require each member of the public attending a
3		proceeding not to disclose the name or personal identifying information
4		regarding any person who is a party to the proceeding, or person testifying
5		at the proceeding.
6	(2) (a)	A court chosen for the pilot project authorized by Section 1 of this Act may
7		close the hearing or any part thereof upon motion of a party or upon its
8		own motion if the court determines that closure is in the best interest of the
9		child, the public, or for other good cause shown. The party seeking closure
10		shall have the burden of proof.
11	<u>(b)</u>	In considering whether closure of a hearing is in the best interest of the
12		child or the public, the court shall give priority to the best interest of the
13		child. The court shall also consider all relevant circumstances of the case,
14		including but not limited to:
15		1. The nature of the allegations;
16		2. The age and maturity level of the child;
17		3. The benefit to the child, family, and public of maintaining
18		confidentiality;
19		4. The benefit to the public of an open hearing;
20		5. The effect of confidentiality on the fact-finding process;
21		6. The wishes of the parties, victims, and the parents of any children
22		involved in the case; and
23		7. Whether reasonable alternatives to closure are available.
24	<u>(c)</u>	The court shall make written findings of fact and conclusions of law to
25		support an order of closure, and any order of closure shall be no broader
26		than is necessary to protect the interests asserted by the party seeking
27		closure.

1	(3) Unless otherwise authorized by law, a court chosen for the pilot project
2	authorized by Section 1 of this Act shall not:
3	(a) Release any record discussed at any open proceeding authorized by Section
4	1 of this Act, prior to, at, or after the proceeding which is made confidential
5	pursuant to law;
6	(b) Permit audio, visual, or other recording of the proceedings by any person
7	who is attending the proceeding, a party to the proceeding, or testifying a
8	the proceeding;
9	(c) Permit any audio, visual, or other recording of the proceedings for official
10	court purposes to be made a public record, copied, or released to the public;
11	<u>or</u>
12	(d) Permit any member of the public attending the proceeding, who is not a
13	party to the proceeding, or who is not testifying at the proceeding, to
14	disclose the name or personal identifying information of any person who is
15	a party to a proceeding or testifying at a proceeding, outside of the
16	courtroom.
17	(4) A person may take written notes during a hearing, as provided in Section 1 of this
18	Act, and remove them from the courtroom following the hearing provided that no
19	name or personal identifying information of any minor who is a party to the
20	proceeding or testifying at the proceeding shall be taken from the courtroom. The
21	provisions of this subsection are not intended to apply to, and shall not limit the
22	use or publication of, any information obtained by means other than attendance
23	at a proceeding authorized by this section.
24	→SECTION 3. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO
25	READ AS FOLLOWS:
26	(1) Any statute, administrative procedure, or court rule limiting or prohibiting public
27	attendance at court proceedings conducted under KRS Chapter 620 or 625 shall

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1		not apply in a court which is participating in a pilot project authorized by Section
2		1 of this Act to the extent that the Chief Justice, and the presiding judge for a
3		case specified in Section 1 of this Act, have authorized public attendance at the
4		proceeding.
5	<u>(2)</u>	The provisions of this section shall not permit attendance by the public at any
6		court handling a case under KRS Chapter 620 or 625 which is not participating
7		in the pilot project authorized by Section 1 of this Act, except as otherwise
8		authorized by law.
9	<u>(3)</u>	Unless authorized by law, the provisions of this section shall not permit
10		attendance by the public in any court participating in the pilot project authorized
11		by Section 1 of this Act which is not authorized by the Supreme Court to admit
12		the public for any case or class of cases.
13	<u>(4)</u>	The provisions of this section shall not permit attendance by the public at any
14		case before a court participating in the pilot project authorized by Section 1 of
15		this Act when the judge presiding over the case determines that the case shall be
16		<u>closed.</u>

President of Senate

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Separte

Approved Governor

Date 9 APRIL 2016